

# **U.S. Department of Energy**



## **Competitive Sourcing Program** *Operating Guidelines*

**Issued under authority of:**  
**Competitive Sourcing Executive Steering Group**  
**July 1, 2004**

**COMPETITIVE SOURCING PROGRAM OPERATING GUIDELINES**

**Table of Contents**

**1. REFERENCES ..... 1**

**2. PURPOSE ..... 1**

**3. APPLICABILITY AND SCOPE ..... 1**

**4. DEFINITIONS..... 1**

**5. OPERATING PARAMETERS ..... 1**

    5.A General .....1

    5.B Competitive Sourcing Program .....2

    5.C Execution .....5

    5.D Implementation.....9

    5.E Post Competition Accountability .....10

**APPENDIX A. DEFINITIONS AND ACRONYMS..... A-1**

**APPENDIX B. ROLES AND RESPONSIBILITIES ..... B-1**

**APPENDIX C. CONFLICT OF INTERESTS GUIDELINES ..... C-1**

**APPENDIX D. NON-DISCLOSURE STATEMENT ..... D-1**

**DEPARTMENT OF ENERGY  
COMPETITIVE SOURCING PROGRAM OPERATING GUIDELINES**

**1. REFERENCES**

- A. Office of Management and Budget (OMB) Circular No. A-76 (Revised), Performance of Commercial Activities, May 29, 2003
- B. Draft Department of Energy (DOE) *Competitive Sourcing Procedures Guide (CSPG)*
- C. Draft DOE *Competitive Sourcing Human Resources Guidebook (HRG)*
- D. Federal Acquisition Regulations (FAR)
- E. Department of Energy Acquisition Regulation (DEAR)

**2. PURPOSE**

To establish guidelines for the execution of DOE's Competitive Sourcing Program.

**3. APPLICABILITY AND SCOPE**

- A. The *Competitive Sourcing Program Operating Guidelines* (hereafter referred to as *Operating Guidelines*) are applicable to all DOE organizations, staff, and competitive sourcing teams responsible for the execution of the Department's Competitive Sourcing Program.
- B. The Draft DOE *CSPG* provides procedures for implementing the *Operating Guidelines* and is intended to provide guidance to enable competitions to be completed in an efficient and successful manner.
- C. The Draft DOE *HRG* provides human resource (HR) related procedures for implementing Competitive Sourcing competitions. This guidebook is intended to provide HR Specialists an understanding of the key role they play in the success of DOE's Competitive Sourcing Program.

**4. DEFINITIONS**

Fundamental terms used in these *Operating Guidelines* are defined in Appendix A.

**5. OPERATING PARAMETERS****A. General**

- 1) Whenever practicable, DOE will utilize competition to encourage improvements in Department operations with the objective of enhancing quality, economy, and performance.
- 2) The Department will utilize the provisions of the OMB Circular A-76, the DOE *CSPG*, the FAR, DEAR, and other appropriate regulations and internal directives in conducting its competitions.
- 3) When complying with these *Operating Guidelines* and the OMB Circular A-76, DOE elements will consider and ensure that the Department's overall mission requirements and strategic objectives are met. All competitions will be conducted in a fair, responsible, and

equitable manner, providing all players with a level and objective playing field and ensuring that no foregone conclusions will dictate the outcome of any competition.

- 4) The Department will work to ensure that government personnel, customers, and key stakeholders are kept apprised of its competitive sourcing actions and decisions.
- 5) In accordance with OMB Circular A-76, the Secretary of Energy will appoint a Competitive Sourcing Official (CSO) who will serve as the Department's focal point for competitive sourcing under the direction of the Department's Competitive Sourcing Executive Steering Group (CSESG). The roles and responsibilities for the CSESG, CSO, other Competitive Sourcing officials, organizations, and teams are described in Appendix B.
- 6) The CSESG includes the Deputy Secretary, the Under Secretary for Energy, Science and Environment, Under Secretary for Nuclear Security and the Director, Office of Management, Budget and Evaluation/Chief Financial Officer. Advisory members may include representatives from General Counsel, Congressional and Intergovernmental Affairs, Public Affairs, affected line organizations, and representatives from the National Headquarters' offices of employee unions.

## **B. Competitive Sourcing Program**

- 1) The foundation for the President's Competitive Sourcing Initiative is the public-private competition of the government's commercial activities. The policy and procedures for executing public-private competitions are contained in the OMB Circular A-76.
- 2) DOE is implementing the requirements of OMB Circular A-76 through the establishment of a Competitive Sourcing Program. OMB Circular A-76 provides a standardized, structured process for determining the most efficient and cost effective method of performance for commercial activities. This competitive process allows government managers to make sound business decisions based on cost comparison determinations - regardless of "who" performs the work. The Competitive Sourcing Program promotes competition, which drives improved performance at reduced cost. The Office of Competitive Sourcing/A-76 (OCS) manages the Department's Competitive Sourcing Program.
- 3) The Department will employ a defensible, repeatable methodology for identifying potential competitions, nominating potential competition candidates, analyzing nominated candidates for competition feasibility, executing competitions, and implementing the results. The Competitive Sourcing Lifecycle (Figure 1) is a framework designed to focus the activities of the DOE Competitive Sourcing Program. This process will work in DOE's unique environment and focuses on mission requirements. Mandated lifecycle requirements are discussed in these *Operating Guidelines*, however the mechanics of executing the lifecycle are contained in the *CSPG*.

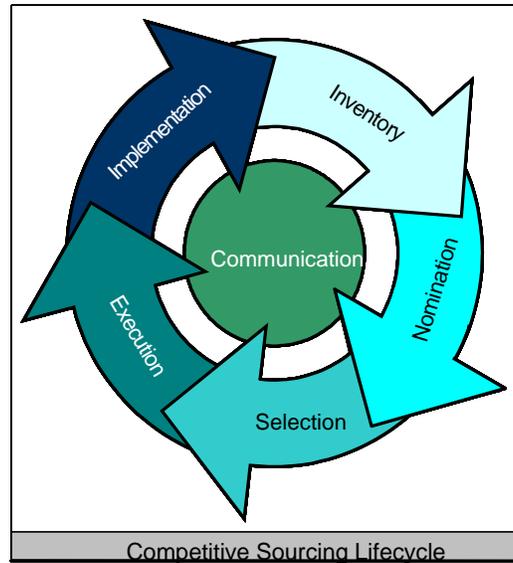


Figure 1

- 4) Planning is the first step in competitive sourcing and it is conducted in three phases: inventory, nomination, and selection.

a) Inventory

DOE elements will provide requested commercial and inherently governmental activities inventory data to DOE's OCS to facilitate submission of DOE's Federal Activities Inventory Reform (FAIR) Act and Inherently Governmental inventories to OMB by June 30th of each year. OCS will provide instructions to elements to facilitate the timely and accurate submission of their inventories.

The FAIR Act inventory will form the primary basis for identifying potential candidates as nominations to undergo a feasibility study.

b) Nomination

The OCS is responsible for identifying and coordinating potential competition nominations under the direction of the Department's CSESG.

The OCS will provide nominations to the CSESG for feasibility study. These nominations will be based upon the evaluation of nominees suggested by DOE organizations, evaluation of the DOE FAIR Act and Inherently Governmental inventories, and/or evaluation of nominees otherwise suggested for study. The nominations will be structured into groupings that focus on activities as business units (e.g., consistent with market and industry structures), however, department-wide groupings are encouraged when practical. Upon approval of the nominations by the CSESG, a Feasibility Study Program Manager and required support will be identified.

At a minimum the feasibility study will consider the following factors:

- Severability of the work/activities under consideration
- Validation or review of the nominated group or activity to ensure it contains Full Time Equivalents (FTE) performing commercial functions

- Impacts on the Department's modernization, budget, workforce planning initiatives
- Risks to mission accomplishment
- Availability of private sector offerors
- Potential for achieving efficiencies and cost savings
- Availability of workload data, work units, quantifiable outputs of activities or processes and high level work break down structure
- Industry performance standards
- Baseline costs as performed by the incumbent service provider using COMPARE
- Use of a streamlined or standard competition

The feasibility study will be conducted with the greatest amount of sensitivity to the studied organizations and their personnel as possible. The information collected, analyzed and presented is considered to be "pre-decisional management information" and will not be released without the approval of the CSESG.

c) Selection

The results of the feasibility study will be reported to the OCS for presentation to the CSESG. The CSESG will review the nominations and select the candidates for competition.

Once the CSESG decides to initiate a competition, the CSO appoints, with CSESG concurrence, the Functional Team Official, Contracting Officer (CO), Human Resource Advisor (HRA), and in conjunction with the Head of the Contracting Activity (HCA), the Source Selection Authority (SSA), for both streamlined and standard competitions. For streamlined competitions, an Agency Tender Official (ATO) and Performance Work Statement (PWS) Team Leader are not required, but may be appointed if a PWS and MEO are developed. For standard competitions the CSO will appoint an ATO and PWS Team Leader. An ATO can request a MEO Validation Advisor (MVA) at his discretion. In all competitions, these officials have the responsibility for executing the competition within the guidelines established in OMB Circular A-76. The hierarchy for this organization is shown in Figure 2.

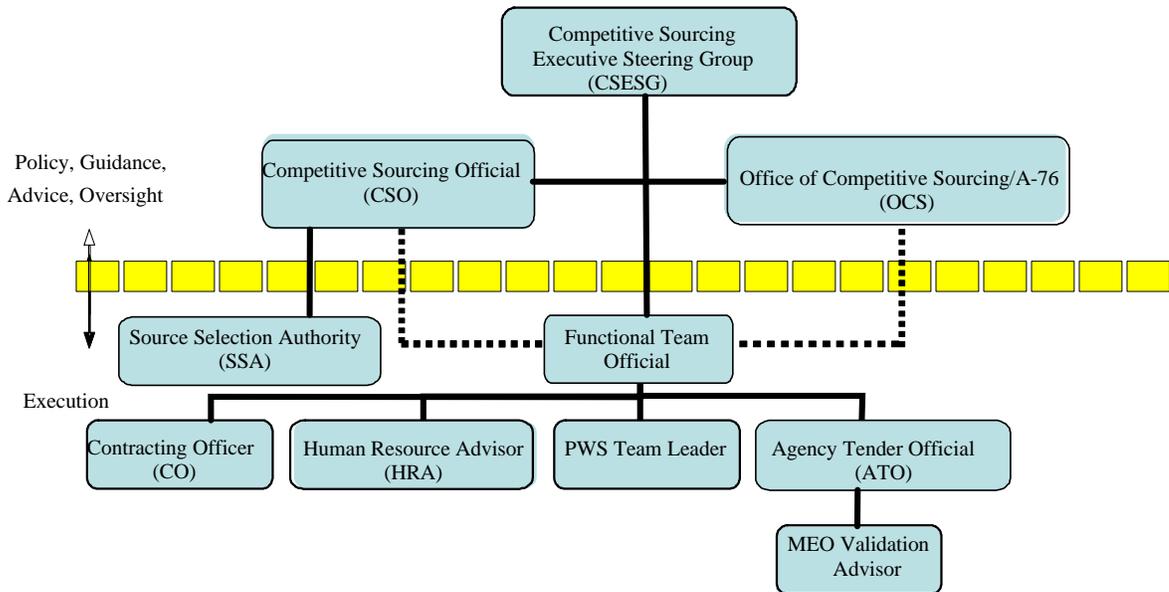


Figure 2

The officials listed in Figure 2 must be in positions identified as inherently governmental unless an OMB deviation is obtained. Their performance in these key positions will be evaluated in their annual performance appraisals.

The Functional Team Official will develop a Plan of Action and Milestones (POAM) for the approval of the CESG. This POAM will contain the proposed schedule for the competition, identification of essential team members, roles and responsibilities, training and communications plans, and estimated resources required to complete the competition.

All government personnel assigned to support competitions will be provided with necessary training on A-76 policies and procedures. In addition, they will be apprised of the rights of first refusal as stated in Appendix C and sign a non-disclosure agreement as shown in Appendix D.

After the POAM is approved by the CESG, a public announcement will be made in accordance with OMB Circular A-76. The CSO in coordination with the OCS is responsible for making the public announcement.

### C. Execution

- 1) Streamlined and standard competitions will be conducted in accordance with OMB Circular A-76.
- 2) Once a competition is initiated by the announcement, the Functional Team Official will submit a request, through the OCS, for any proposed FTE expansions or decreases in the competition for consideration by the CSO and CESG.

- 3) The Functional Team Official will coordinate with the OCS and will submit requests to the CSESG, to modify (change the type of competition authorized), expedite, cancel, suspend, or delay a competition. All requests shall include sufficient justification detailing the reasons such proposed action should be taken.
- 4) Heads of Departmental Elements may submit, without delegation, a written request to the CSESG to review a particular matter concerning an ongoing study. Such requests must be timely submitted to the CSESG through the OCS and will not be considered if the desired action requested cannot be granted based on the status of the study. For example, FTE will generally not be removed from a study after a solicitation has been advertised. The request shall identify to the extent pertinent: 1) the organization's issues/concerns; 2) the number of FTE involved; 3) the FAIR Act coding of the FTE; 4) the outcome being sought; and 5) a thorough justification for the proposed relief/action. The matter will be referred to the cognizant Functional Team Leader and/or other DOE Elements which will provide their own analysis and recommendation for consideration. The requesting office shall provide additional information if needed to help determine the appropriate action. Upon receipt of all pertinent and requested information, the OCS will prepare a decision package for the CSESG which will determine the final disposition of the request. The OCS will notify the relevant offices of the CSESG's decision.
- 5) During the course of a competition, potentially affected government personnel will be kept apprised of the status of the competition at least semiannually. Functional Team Officials will make every effort to consider government personnel, management, union, and customer views when preparing the PWS and Agency Tender. A communications plan will be developed for each competition.
- 6) Whenever a competition team (PWS, MEO, etc.) meets, to the extent appropriate, minutes of such meetings will be taken and entered into that specific team's/sub-team's competition record.
- 7) The OCS will provide guidance and assistance to the Functional Team Official throughout the streamlined or standard competition.
- 8) The OCS will maintain DOE's A-76 Competition Management Tracking System (CMTS). The PWS Team Leader and ATO shall ensure the timely submission of competition milestone data to the Functional Team Official, who is then responsible for submitting that data to the OCS for inclusion in CMTS. CMTS data requirements and milestones are contained in the *CSPG*.
- 9) DOE will use the COMPARE software to prepare the government's Agency Cost Estimate.
- 10) A Continuing Government Activity Plan will be developed in conjunction with the development of the requirements document for streamlined competitions and the PWS in standard competitions. At a minimum, this plan will identify a proposed organizational structure and associated FTEs that will oversee the competition winner.
- 11) Competitions
  - Streamlined Competitions
    - a) Streamlined Competitions shall not exceed 90 calendar days from public announcement (start date) to performance decision (end date) unless the CSO grants a

time limit waiver with the approval of the CSESG. Before the public announcement of each streamlined competition, the CSO with the approval of the CSESG may grant a time limit waiver, in writing, allowing a specific streamlined competition to exceed the 90 day time limit by no more than 45 calendar days, for a maximum of 135 calendar days from public announcement (start date) to performance decision (end date). A time limit waiver may be granted only in conjunction with the use of an MEO and/or a solicitation.

- b) The Functional Team Official will appoint teams to develop a requirements document, the cost of agency performance, and cost of private sector/public reimbursable performance. However, if it is the decision of the Functional Team Official to use formal source selection procedures, he will propose individuals to the CSO for formal appointment as the PWS Team Leader and ATO. He will, also, obtain the contracting office recommendation for the CSO appointment of a contracting officer for the procurement. Individuals preparing the cost of agency performance and the individuals preparing the cost of private sector/public reimbursable performance will be different, and will not share information concerning their respective estimates.2) Standard Competitions

#### Standard Competitions

- c) A standard competition will not exceed 12 months from public announcement (start date) to performance decision (end date) unless the CSO with the approval of the CSESG grants a time limit waiver prior to the announcement. The CSO with the approval of the CSESG may grant the time limit waiver, in writing, extending the time limit by 6 months, for a maximum of 18 months. OMB must be provided a copy of the extension before the Public Announcement.
  - d) The Functional Team Official will provide overall management level decisions on the business unit under study, but will in no case, specifically direct what is in the PWS or the Most Efficient Organization (MEO).
- 12) The ATO will certify the Agency Tender and agency cost estimate.
- 13) Contracting and Source Selection Issues
- a) The Department will not issue a solicitation that places any prospective provider at an unfair competitive advantage. When developing and issuing a solicitation for a standard competition, the Contracting Officer (CO) shall comply with the FAR, DEAR, OMB Circular A-76, these *Operating Guidelines*, *CSPG* and any other applicable A-76 and procurement guidelines or policy.
  - b) The Department will provide access to a draft of the PWS or solicitation for public review and comment, including review and comment by directly affected government personnel and representatives of directly affected government personnel. All releases of the PWS and solicitation, including drafts, shall be by the CO. Information that is developed by the ATO or MEO Team shall be considered procurement sensitive. With the exception of information related to the performance or productivity of the incumbent Department element, historical data or other existing information related to the development of the requirements document or PWS that is available to the ATO or MEO Team will be made available to all prospective providers upon request.

- c) A solicitation shall state that the Agency Tender is not required to include: (a) a labor strike plan; (b) a small business strategy; (c) a subcontracting plan goal; (d) participation of small disadvantaged businesses; (e) licensing or other certifications; and (f) past performance information (unless the Agency Tender is based on an MEO that has been implemented in accordance with OMB Circular A-76 or a previous OMB Circular A-76).
- d) The CO shall include in the solicitation a requirement for a phase-in plan. The Agency Tender, private sector offer, and public reimbursable tender shall propose a phase-in plan to replace the incumbent service provider. Phase-in plans shall include details to minimize disruption and start-up requirements. The phase-in plan shall consider recruiting, hiring, training, security requirements, and any other special considerations of the prospective providers to reflect a phase-in period of realistic length and requirements.
- e) The CO shall include in the solicitation a requirement for prospective providers to include a quality control plan in their offers and tenders.
- f) After the solicitation closing date, only the ATO may make changes to the Agency Tender, and such changes shall only be in response to the following: (a) a solicitation amendment issued in accordance with the FAR; (b) the CO's request for final proposal revisions to offers and tenders in accordance with FAR 15.307; (c) official changes to the standard cost factors identified in Attachment C of the Circular; (d) version upgrades to the COMPARE costing software issued by the Department of Defense; or (e) resolution of a contest challenging a performance decision. The CO shall retain documentation regarding any changes to the Agency Tender as part of the competition file and in a form suitable for audit.
- g) Source Selection for DOE competitive sourcing competitions shall be conducted in accordance with the FAR and DEAR. In that regard, no directly impacted government personnel may participate as the Source Selection Authority or as a member of the Source Selection Evaluation Board. Other specific acquisition related procedures are detailed in the DOE *CSPG*.
- h) DOE will use formal source selection procedures to evaluate offers and will make its selection based on the offer that is in the government's best interest.

#### 14) MEO Validation Process (MVP)

- a) A MEO Validation Advisor (MVA) may be requested at the discretion of the ATO.
- b) The MVP will be conducted in accordance with generally accepted government auditing standards. The MVA should be a qualified person from an impartial activity that is organizationally independent of the activity that is being competed and the activity preparing the cost comparison. To ensure independence and impartiality, MVA personnel must not participate in the preparation of cost estimates or supporting documentation or have participated in development of the requirements document or PWS.
- c) Streamlined Competition. Quality control of the streamlined competition will consist of validating the cost of agency performance.

- d) **Standard Competition.** The objective of the validation of the Agency Tender is to determine whether it reasonably establishes the government's ability to perform the PWS requirements within the resources provided in its MEO. The objective of the MVP of the agency cost estimate is to determine whether costs entered on the Standard Competition Form (SCF) to arrive at the agency cost estimate are fully justified and calculated in accordance with OMB Circular A-76. Reviews will consist of reviewing the assumptions, methodology, rationale and applicable historical records, budget and authorization documents, and other official records used to support cost estimates. The review generally will not include evaluation of the accuracy of accountable records, other reports and official records used to support the estimate, or underlying internal controls.

#### 15) Contests

- a) The pursuit of a contest by a directly interested party and the resolution of such contest by the Department shall be governed by the procedures of FAR Subpart 33.103.
- b) No party may contest **any aspect** of a streamlined competition.
- c) A directly interested party (see Attachment A) may contest any of the following actions taken in connection with a standard competition: (1) a solicitation; (2) the cancellation of a solicitation; (3) a determination to exclude a tender or offer from a standard competition; (4) a performance decision, including, but not limited to, compliance with the costing provisions of the Circular and other elements in the Department's evaluation of offers and tenders; or (5) a termination or cancellation of a contract or letter of obligation if the challenge contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the performance decision.

### D. Implementation

- 1) In implementing competitive sourcing decisions, the Department will adhere to all applicable personnel statutes, regulations, and DOE-specific human resources requirements documents. The Department will also make every effort to minimize adverse actions associated with competitive sourcing.
- 2) The Functional Team Official will provide quarterly updates to the OCS on the status of phase-in actions and the assessment of support through the first year of performance regardless of whether the selected provider is a commercial offeror, the government's MEO, or public reimbursable organization. The purpose is to help monitor performance during both the phase-in period and the first year of full performance.
- 3) The Functional Team Official will work with the CSO to determine who will sign the Letter of Obligation as the DOE representative for performance of the MEO.
- 4) The Functional Team Official or designated representative shall implement the Phase-in Plan developed by the winning Agency Tender, private sector offer, or public reimbursable tender. A Transition Team to facilitate implementation of the award decision will be appointed. This team should include functional area experts, representatives from customer entities, HR, Procurement, Budget/Accounting, General Counsel, Management and Organizational Analysis, and other DOE Elements as necessary.

- 5) The Functional Team Official shall develop a Contingency Plan that will provide instructions on implementing immediate action in the event the performing activity is terminated (regardless of cause), if the need should arise during phase-in or at any other time.
- 6) The phase-in, regardless of the performance decision, shall not exceed six months. The Functional Team Official must submit a formal extension request through the OCS to the CSESG to exceed this allotted timeframe. Phase-in will be carried out in accordance with the phase-in plans developed by the winning proposal. The Functional Team Official shall periodically provide phase-in status information through the OCS to the CSESG.

#### **E. Post Competition Accountability**

- 1) The Functional Team Official shall provide lessons learned to the OCS throughout the competition. The OCS will post best practices and lessons learned resulting from a streamlined or standard competition process on DOE's A-76 website and submit these to SHARE A-76
- 2) The OCS will use CMTS to track the execution of streamlined and standard competitions. CMTS will (1) assign a unique tracking number to each streamlined and standard competition, (2) include data fields as defined on the OMB, (3) track each streamlined and standard competition as events occur (real-time) from the date of public announcement through either completion of the last performance period or cancellation of the competition, and (4) retain historical records of streamlined and standard competitions after the last performance period has been completed.
- 3) The OCS will submit a Competitive Sourcing Quarterly Report to OMB, by the end of each fiscal quarter (December, March, June, September), that includes the following: (1) in-progress streamlined and standard competitions (i.e., competitions with start dates and pending performance decisions); and (2) completed streamlined and standard competitions (i.e., competitions with performance decisions). Information contained in the CMTS will create the baseline for this report.
- 4) Regardless of the selected service provider, after implementing a performance decision, the Functional Team Official will: (1) monitor performance for all performance periods stated in the solicitation; (2) implement the quality assurance surveillance plan; (3) may retain a copy of the solicitation and any other documentation from the streamlined or standard competition (4) record the actual cost of performance by performance period; and (5) monitor, collect, and report performance information, consistent with FAR Subpart 42.15, for purposes of past performance evaluation in a follow-on streamlined or standard competition.